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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,808	05/12/2006	Andrew Montgomery	MOAE0101PUSA	7006
22045	7590	11/26/2008	EXAMINER	
BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075				SKURDAL, COREY NELSON
3782		ART UNIT		PAPER NUMBER
11/26/2008		MAIL DATE		DELIVERY MODE
				PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/595,808	MONTGOMERY, ANDREW
	<b>Examiner</b>	<b>Art Unit</b>
	COREY N. SKURDAL	3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 May 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-6 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 07 May 2008 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/28/2006</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "and/or" in claim 1 lines 9 and 11, claim 2 line 2, claim 5 line 5, and claim 6 lines 7, 9 and 11, renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention, and as such what specific structure is being claimed. For examination it will be treated as being only "and".

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore (US 6,089,752).

Regarding claim 1, Moore discloses a sack 5 for compressing compressible material contained therein, the sack including: a pliable body portion 10 for receiving the material, the body portion having a lower base portion 40, wall means and an upper

opening 11 for introducing the material into the sack and removing it therefrom; cover means 20 exterior to the body portion and fixed thereto proximate the opening and having cover fastening means 75 for releasably fastening to the body portion proximate the base whereby the cover means covers the opening, and a plurality of straps 60/65/70/75/85 and connectors exterior to the body portion and attached thereto; wherein the cover fastening means 75 and the plurality of straps and connectors are operable to compress material in the body portion.

Regarding claim 2, shoulder straps 60/65 cooperable with another or others of the plurality of straps and connectors whereby the sack constitutes a backpack.

Regarding claim 3, the upper portion of the wall means constitutes the opening and includes a drawstring 30 for the opening.

Regarding claim 4, the body portion 10 is shaped to be substantially cylindrical when full and the cover means 20 is cap-like and adapted to cover and extend below the opening when the cover fastening means is fastened to the body portion.

Regarding claim 6, Moore discloses a backpack 10 including: a pliable body portion 10 having a lower base portion 40, wall means and an upper opening 11 for introducing material into the backpack and removing it therefrom; cover means 20 exterior to the body portion and fixed thereto proximate the opening and having cover fastening means 75 for releasably fastening to the body portion proximate the base whereby the cover means covers the opening; a plurality of straps 70/85 and connectors exterior to the body portion and attached thereto, and shoulder straps 60/65 fixed to the body portion proximate the opening, the shoulder straps cooperating in use

with at least one of the plurality of straps and connectors and being stowable when not in use (i.e. the straps could be tucked inside the opening 11); wherein the cover fastening means and the plurality of straps and connectors are operable to compress compressible material in the body portion.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Thompson (US 6,325,262). Moore discloses the invention substantially as claimed but does not have porous pliable panel member that creates a sleeve. However, Thompson teaches that it is well known to provide a backpack 100 having a wall means 110 and shoulder straps 120 with a porous pliable panel member 130 between the shoulder straps and attached to the wall means to form a sleeve 131 on the back of the back pack, whereby the sleeve can also be used to store a stiffening member 150. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention that the straps 60 and 65 of Moore can be used as shoulder straps, and to provide the sack with a breathable barrier/sleeve as taught by Thompson in order to make the sack more comfortable when carried as a backpack by the wearer. In doing so, a sleeve would be defined which could be used to stow a stiffening member, a hydration bladder, or the shoulder straps when not in use.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COREY N. SKURDAL whose telephone number is (571)272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. N. S./  
Examiner, Art Unit 3782

Art Unit: 3782

/Nathan J. Newhouse/  
Supervisory Patent Examiner, Art Unit 3782